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STATE FOR EB/IFD/OIA AND WHA/CEN
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SUBJECT: AmCit-owned Cable TV Company Claims Harassment by
Powerful Honduran Rival

1. (SBU) Summary. A U.S.-owned cable TV company, Mateo's Cable Vision, claims that it has been subject to an unusual number of audits and investigations from various GOH agencies over the past year. The owners of this company, Michael and Sally Mitrovic, see these investigations as acts of harassment that are being orchestrated by their main competitor, who is an influential Honduran Congressman. This case was first brought to the attention of USTR in Washington, which notified the Embassy. EconOfs have looked into the case and clarified the situation, and have provided advocacy by bringing the case to the attention of the appropriate GOH officials. We have encouraged Honduran officials to ensure that their agencies conduct investigations fairly, not focusing only on U.S.-owned companies or allowing themselves to be affected by political considerations. End Summary.

U.S. Company Claims Harassment

2. (SBU) Michael Mitrovic, a U.S. citizen, and his wife Sally Navarrete-Mitrovic, a Honduran-born, naturalized U.S. citizen, are owners of a cable TV company named Mateo's Cable Vision. The company operates in the north coast city of Tela.

3. (SBU) The only other cable TV company which operates in Tela is called SatelCab, and is owned by Rodolfo Irias Navas, a very powerful Congressman from the National Party. Congressman Navas served as President of Congress from 1990 to 1994, and has been involved in other controversial business projects. According to the Mitrovics, their own company, Mateo's Cable Vision, is doing very well, and steadily taking market share from SatelCab. They believe that, as a result, Congressman Navas is using his political influence to bring pressure upon Mateo's Cable Vision through various government agencies. The Mitrovics say that over the past year, they have been subject to an unusual number of investigations and audits from several government agencies, which constitute "harassing and discriminatory acts."

4. (SBU) Post first learned of the Mitrovics' case from a December 12th letter sent from the Mitrovics' U.S. attorney to Ambassador Zoellick of USTR. This letter was then forwarded to post. At the time, the only record of the Mitrovics in embassy files was the consular section file regarding the kidnapping attempt against Mrs. Navarrete-Mitrovic in 1999 (see paragraph 19 below); we had no record of the company's investment dispute. Upon making contact with Mrs. Navarrete-Mitrovic, we arranged a meeting at the embassy to learn the details of the case, and have been in contact with the Mitrovics ever since. After this meeting, Mrs. Mitrovic filled out an advocacy request, which the embassy received on January 13th.

5. (SBU) The specific investigations and audits to which Mateo's Cable Vision has been subject are as follows:

-- ENEE

6. (SBU) In May 2003, the Honduran Electricity Company ENEE threatened to cut off electricity for Mateo's Cable Vision unless bills were paid immediately upon receipt. The Mitrovics believe this reflects political pressure, because Mateo's Cable Vision holds a 42,000 Lempira (about USD 2,300) bank bond in the name of the electricity company, and because the usual practice is to allow 30 to 60 days to pay electricity bills.

-- Immigration Department

7. (SBU) An Argentine national who works for Mateo's Cable Vision as a Technical Director was nearly deported from Honduras in early 2003. The Mitrovics' Honduran counsel quickly filed a request for residency papers for this consultant to avoid the deportation. They believe that

Congressman Navas was behind the unusually quick and efficient action taken by the GOH Immigration Department on this case.

-- CONATEL

18. (SBU) The Mitrovics claim that four times during 2003, officials from CONATEL, the GOH agency which regulates cable TV companies, have performed unannounced audits and inspections of Mateo's Cable Vision. The Mitrovics believe that it is highly unusual for one company to be the subject of four audits and inspections during the course of a year. In the first three audits, the Mitrovics say that their company was found to be fully in compliance with regulations. In the most recent audit, it was discovered that Mateo's Cable Vision had missed a payment earlier in the year; they have acknowledged this and agreed to make the payment and pay a late fee.

-- IPR Division

19. (SBU) The Copyright Office of the Division of Intellectual Property Rights (IPR), in the Ministry of Industry and Trade, is conducting an investigation into allegations that Mateo's Cable Vision has broadcast about thirty channels for which it does not have a contract. The investigation was triggered by a complaint from ESPN, but the Mitrovics believe that ESPN received the information about Mateo's Cable Vision from Congressman Navas, their competitor. Note: When the Mitrovics first established Mateo's Cable Vision in 2002, they simultaneously denounced Congressman Navas' company, SatelCab, to the IPR Division, correctly alleging that SatelCab was broadcasting sixteen pirated channels. It seems very feasible, though we have seen no direct evidence, that Congressman Navas is indeed involved behind the scenes as this same tactic is now being used against Mateo's Cable Vision. End note.

110. (SBU) The Mitrovics and their attorneys claim that the company has never broadcast ESPN, and that the company possesses contracts for most, but not all, of the channels that they have been accused of pirating. However, one of the company's attorneys has indicated that at least one station was listed as available to Mateo customers, without the company having a contract, and that the company might be subject to a fine for this misleading advertising. In addition, Mrs. Navarrete-Mitrovic privately admitted that they have at times brought down signals for which they do not have a contract.

111. (SBU) Of these four types of government audits or investigations cited as examples of harassment, the only one that is currently ongoing is the investigation of the IPR Division of the Ministry of Industry and Trade.

-- Defamation

112. (SBU) In addition, according to the Mitrovics' attorneys, Michael Mitrovic has been described on a television station owned by Congressman Navas as having connections to Colombian narcotraffickers, apparently in an effort to damage Mr. Mitrovic's reputation and discourage customers from subscribing to his company's cable service. Mr. Mitrovic's attorneys acted to stop the television station from making defamatory accusations.

Embassy Advocacy

113. (SBU) In conversations with both Mr. and Mrs. Mitrovic and their lawyers, EconOfs have made it clear that we can not ask Honduran government agencies to refrain from auditing companies or investigating claims of wrongdoing - in effect, to refrain from doing their job. We have also discussed the importance of correcting any weak points in the Mitrovics' case. The Mitrovics and their counsel are now focusing on addressing these aspects of their situation and responding to the IPR Division's investigation through the established legal channels.

114. (SBU) However, we do find it highly credible that the pattern of audits and investigations experienced by the Mitrovics reflects the influence of their competitor, Congressman Navas. We have raised the case with the appropriate GOH officials in order to draw attention to the perception that a U.S.-owned company is being harassed by a politically influential rival.

115. (SBU) First, on December 18th, EconCouns spoke with Marlon Tabora, the President of CONATEL, the Honduran telecommunications regulatory agency. Tabora was unfamiliar with the audits of the company by his office, but indicated willingness to speak directly to the Mitrovics or their counsel and address the issue.

16. (SBU) On December 23rd, EconOff spoke with Marvin Discua, Director of the Intellectual Property Division of the Ministry of Industry and Trade. EconOff expressed approval that Discua's office is pursuing claims of satellite piracy, but stressed that it is important that all such claims be given equal attention, and that a company not be singled out because it is U.S.-owned. Discua assured EconOff that this is not the case, and has promised to send the embassy information regarding all investigations performed by his division during 2003.

17. (SBU) EconCouns has also mentioned the case to the President's Special Advisor for Foreign Investment, Camilo Atala.

18. (SBU) On January 13th, the embassy received an advocacy request from Mrs. Mitrovic, which we have faxed to the Department of Commerce. In the request, Mrs. Mitrovic asks that the embassy "investigate if CONATEL, the copyrights office, ENEE and other offices are as persistent with their inspections of other companies as with Mateo's Cable Vision." Embassy does not recommend an investigation of this issue per se, but will work with Commerce to determine if any further actions are advised to be responsive to this advocacy request.

Consular Issue

19. (SBU) A separate issue concerns Mrs. Navarrete-Mitrovic's personal safety and, in particular, a kidnapping attempt against her which took place in 1999. The alleged perpetrator of this crime was arrested on the day of the attempt, but released from prison after three months. A new warrant was eventually issued for his arrest, based upon the kidnapping attempt and other past crimes that he is accused of committing, but he has not yet been arrested.

20. (SBU) While the kidnapping attempt is unrelated to the Mitrovics' investment dispute, the two issues were linked when the case was brought to the attention of USTR, and thus to the embassy. Mrs. Navarrete-Mitrovic is now in contact with the consular section concerning the kidnapping case, and the assistance that the consular section can provide in tracking the GOH's efforts to apprehend the suspect. EconCouns and the consular section have urged the Mitrovics to place the highest possible priority on their personal security.

Comment

21. (SBU) Comment: EconOffs have proceeded cautiously with this case, considering that the various Honduran government agencies accused of harassing Mateo's Cable Vision are, after all, doing their jobs, and given the indication of some limited IPR violations on behalf of the U.S. company. At the same time, it does seem very plausible to EconOffs, given our knowledge of the political and business climate of Honduras, that an influential Congressman is pulling strings to make life difficult for a growing, U.S.-owned competitor. Congressman Navas has been involved in some other high-profile business disputes in the past, including seeking to influence the adjudication of a permit to build a hydro-electric dam on the Cangrejal River. Probably the most worrisome issue of all has been the spread of false rumors in Tela about the Mitrovics, with some versions alluding to ties to Colombian narcotraffickers.

22. (SBU) We have been successful in clarifying the various issues of this complicated case, explaining the proper role of the embassy to the Mitrovics and their attorneys, and encouraging them to correct any minor disputes immediately, so that their company will have nothing to fear from government investigations. Post will continue to follow the issue, as the case is an example of the difficult investment climate that at times prevails for U.S.-owned businesses in Honduras. End Comment.

Palmer